



STATE OF MAINE
Department of Environmental Protection

JOHN ELIAS BALDACCI
GOVERNOR

Beth A. Nagusky
ACTING COMMISSIONER

MEMORANDUM

TO: Board of Environmental Protection
FROM: Mike Mullen, Division of Land Resource Regulation
DATE: December 16, 2010
RE: Request Provisional Adoption: Amendments to Chapter 305, Permit by Rule Standards, Section 16 Activities in coastal sand dunes

Statutory and Regulatory Reference:

Chapter 305 Permit by Rule Standards ("PBR") are adopted pursuant to general statutory authority at 38 M.R.S.A. Section 341-D(1) and specific authority at 38 M.R.S.A. Section 480-H. 38 M.R.S.A. §480-AA states that all rules regarding development in coastal sand dune systems are major substantive rules.

Status of process:

Originally, these proposed rule changes were provisionally adopted by the Board in June 2009. Being major substantive rules, they required Legislative review and approval, which was granted in P.L. 2010, Resolve Chapter 167, effective March 23, 2010. However, the Department inadvertently failed to receive final Board approval within 60 days of that date as required by the Administrative Procedures Act. As a result, it was necessary to repeat the rule-making process.

On October 7, 2010, the Board authorized re posting the rule to 30 day public comment. The proposed amendments to Chapter 305 Section 16 were posted to public comment on October 13, 2010 and the public comment period ended at 5:00 p.m. November 12, 2010. No comments were received.

Description:

The proposed amendments include allowing several new activities in coastal sand dunes, such as open and cobble-trapping fences, and other activities in existing developed areas. Also proposed is the addition of new submission requirements and standards to ensure projects are properly performed. In addition, definitions have been added, deleted or modified to align with the definitions in the *Coastal Sand Dune Rules*, 06-096 CMR 355, which was amended in 2006.

No changes were made to the proposed rule in response to public comment because there were no public comments received.

Department Recommendation:

The Department recommends that the Board provisionally adopt these amendments to Chapter 305 Section 16 Activities in coastal sand dunes.

Estimated Time of Presentation:

Approximately 5 minutes.